



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Kirkpatrick & Lockhart
607 14th Street, N.W.,
Suite 900
Washington, DC 20005

COPY MAILED

FEB 13 2006

OFFICE OF PETITIONS

In re :
Verbinski et al. :
Application No. 09/925,009 : RECONSIDERATION OF
Filing Date: Aug. 9, 2001 : PATENT TERM ADJUSTMENT
Attorney Docket: SAAIC0055-C- :
CIPI :

This decision is in response to applicant's "PETITION UNDER 37 CFR 1.705 FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" timely¹ filed on September 12, 2005 requesting that the PTA determination at the time of the notice of allowance be adjusted from zero (0) days to a determination of 160 days.

Applicants request for PTA reconsideration is **GRANTED**. The Office will adjust the PAIR calculation to reflect this decision.

Applicants assert that the determination of Zero (0) days of applicants delay is not accurate. Applicants assert that the determination is inaccurate because the Office did not provide applicants with USPTO delays under 37 CFR 1.702(a)(1). Specifically, applicants assert that the application filed on August 9, 2001 was not acted upon until April 3, 2003, a one hundred and seventy-four day delay. Accordingly, applicants assert that proper amount of PTA at the time of the issuance of the patent is one hundred and sixty days (174 + 73 - 87).

Applicants' arguments are persuasive. The Office did not act upon the application until April 3, 2003 which is one hundred and seventy-four days more than 14 months. Accordingly, the Office erred by not providing any PTA to applicants as required by 37 CFR 1.702(a)(1).

¹Issue fee was paid on November 10, 2005.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent.

Any delays by the Office in failing to issue the application within four months of the payment of the issue fee and other requirements being satisfied will be added to the determination at the time of the issuance of the patent and will be reflected in the issue notification letter.

The Office has assessed the \$200.00 fee required under 37 CFR 1.18(e). No additional fees are required for making this decision.

Any questions concerning this decision should be directed to Kery Fries 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

cc: Adjusted PAIR calculation